

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 09-43174

VASAN DASHIKACHAR,

Chapter 13

Debtor.

Judge Thomas J. Tucker

---

**ORDER OVERRULING, WITHOUT PREJUDICE, DEBTOR'S OBJECTION TO  
CLAIM OF INTERNAL REVENUE SERVICE**

This case is before the Court on the Debtor's objection to the claim filed by the Internal Revenue Service ("IRS")(Docket # 45). Debtor filed his objection to the IRS claim on May 7, 2009, as well as his notice of the objection and of the hearing date on the objection, which was set for June 11, 2009.

The IRS did not file any written objection or response to the Debtor's claim objection. Nor did Debtor's counsel file a Certificate of No Response with respect to the claim objection. No one appeared for Debtors or for the IRS at the contested-call hearing on June 11, 2009. Nor did anyone appear at the status conference on the morning of June 11, 2009.

For the reasons stated by the Court on the record during the June 11, 2009 hearing, the Court will overrule Debtor's claim objection, without prejudice. The further explanation given in this Order below supplements the Court's bench ruling.

The papers in the file do not indicate that Debtor properly served the IRS with the claim objection and notice of same. The only proof of service in the file is the one attached to the claim objection, which certifies that Debtors served their claim objection and related notice on the IRS at "SBSE Insolvency Unit of IRS," at a specified post office box in Detroit. That service on the IRS was inadequate.

As this Court ruled in a bench opinion in another Chapter 13 case (*In re Smelser*, No. 03-41980, bench opinion delivered on December 8, 2004,) the filing of an objection to a proof of claim initiates a contested matter which is governed by Rule 9014, Federal Rules of Bankruptcy Procedure. *See, e.g.*, Advisory Committee Note to Fed. Bankr. P. 3007. Rule 9014(b), in turn, requires service of the objection to claim (and the related notice) in the manner provided for service of a summons and complaint by Bankruptcy Rule 7004. Rule 7004, in turn, requires that service upon the IRS (like service upon the United States) be done by serving, among others, the Internal Revenue Service, as well as the Civil Process Clerk at the Office of the United States Attorney for this district, and the Attorney General of the United States in Washington, D.C. *See* Fed. R. Bankr. P. 7004(b)(4) and (5); *see also* Fed. R. Bankr. P. 7004(a) and Fed. R. Civ. P. 4(i)(1) and (i)(2).

In addition, it appears that the Debtor also was required in this case to serve the IRS at the address stated in the IRS amended proof of claim where notices should be sent. *See* 11 U.S.C. § 342(e)(1) and (e)(2). But Debtor did not do this either.

For these reasons and the reasons stated by the Court during the June 11, 2009 hearing,

IT IS ORDERED that Debtor's Objection to the Claim of the Internal Revenue Service (Docket # 45) is overruled, without prejudice to the Debtor's right to file a new claim objection and serve notice of same on the IRS in the proper manner.

**Signed on June 11, 2009**

/s/ Thomas J. Tucker  
**Thomas J. Tucker**  
**United States Bankruptcy Judge**